

Summary Minutes
Regular City Council Meeting
City Council Chambers
Sedona City Hall, 102 Roadrunner Dr. Sedona, Arizona
Tuesday, June 8, 2010, 4:30 p.m.

1. **Call to Order/Pledge of Allegiance:** Mayor Adams called the meeting to order at 4:30 p.m.
 - **Reading of City's Vision Statement:** Councilor McIlroy read the City's Vision Statement.
2. **Roll Call:** Mayor Rob Adams, Vice Mayor Cliff Hamilton, Councilor Mark DiNunzio, Councilor Barbara Litrell, Councilor Mike Ward, Councilor Dennis Rayner, Councilor Dan McIlroy

Staff present: City Manager Tim Ernster, Community Services Director Andi Welsh, City Attorney Mike Goimarac, Associate Engineer Andy Dickey, Director of Community Development John O'Brien, Finance Manager Barbara Ashley, Director of Public Works Charles Mosley, Development Services Supervisor Jim Windham, Revenue Manager Jodie Filardo, Senior Planner Mike Raber, Interim Police Chief Jim Driscoll, Administrative Assistant Janet Hill, Associate Planner Kathy Levin, Commander Marlayne Hatler and Deputy City Clerk Alison Carney.

3. **Consent Items:**
The consent portion of the agenda is a means of expediting routine matters that must be acted on by the Council. All items approved will be done by one non-debatable motion passed unanimously. Any member of the Council, staff or public may remove any item for debate. Items removed from the consent portion may be acted upon before proceeding to the next agenda item.

- a. **Approval of Minutes:**
 - (i.) May 20, 2010
 - (ii.) May 25, 2010-Budget
 - (iii.) May 25, 2010
- b. **Liquor License(s):**
 - (i.) Approval of an application for a new Series 12 Restaurant Liquor License and Interim operating permit for the Ken's Creekside Restaurant located at 251 State Route 179 Suite B5-8, License # 12033286.
 - (ii.) Approval of an application for a Special Event Liquor License for the Sedona Performers Guild for a June 20, 2010 Fundraising event at 215 Coffee Pot Drive.
- c. **Approval of a lease and a Memorandum of Understanding with the Sedona Historical Society for operation of Jordan Historical Park.**
- d. **Approval of resolution and an Intergovernmental Agreement with Yavapai County for the establishment of unified emergency management in the amount of \$5,239.**
- e. **Approval of Amended Final Plat for Northview Subdivision Lot 104. (Assessors parcel number 408-26-195, Applicant: City of Sedona.)**

- f. **Approval for Michael Pierce to serve a two-year term on the Historic Preservation Commission until November 30, 2012.**
- g. **Approval of annual undercover license plates for five police vehicles.**
- h. **Approval of a Memorandum of Understanding between Project Partners, which outlines the working relationship between Verde Valley Sanctuary (VVS) and local law enforcement agencies at no cost to agencies.**
- i. **Approval of reimbursing the Superior Court in Yavapai County \$34,000 to provide restoration to competency (RTC) services for a defendant in the Sedona Municipal Court who received services at the Arizona State Hospital.**

Councilor McIlroy moved to approve the Consent Agenda 3a-i except f and i. Seconded by Councilor Rayner. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

Councilor Litrell requested to pull 3f. She wanted to put the spotlight on Michael Pierce. She met with him this week to get a sense of who he was. She was very impressed with his background. She was especially impressed that he's lived here one year and saw the call to the public to serve the city. She thanked him for stepping up to the plate.

Mayor Adams stated 3i was pulled by Councilor McIlroy for explanation purposes.

Councilor McIlroy asked for more clarifications.

Judge Rodger Overholser asked if there's anything in particular. Did you want to know about the case itself? This happened in 2008, which was well before he got here, he learned about it this February, about the change in this law. Previously the costs went to the state then to the county. They amended that law to make it mandatory that cities or counties had to bear that cost and they needed it retroactive. The state, having not known where it derived, other than the Superior Court, billed the Yavapai County Superior Court. They had 30 days to pay it so they did and now they're seeking reimbursement since the law states the originating jurisdiction has to bear the costs. This case arose out of a disturbance out of a local art facility. The individual was a 20-year-old transient. He was arrested and charged with disorderly conduct, threatening, harassing, and stuff like that. He was reported that he had a long history of mental illness and wasn't able to communicate with his lawyer so it came under Rule 11 which states the court can't try an individual if they are incapable of understanding what's going on. The motion wasn't opposed by the prosecution and the matter was sent to the Superior Court. At the time no one thought anything about it because those costs never came back this way. On February 10, 2009, the Superior Court Judge issued an order declaring the defendant was incompetent and ordered he be placed at the State Hospital. He was there from March to July 2009. On July 30 the prosecution moved to dismiss the case and that was the end of it all until we go the bill.

Councilor McIlroy stated he hopes that we learn from this process to not repeat this.

Judge Overholser stated it's a rare occurrence to see a Rule 11 and it's even rarer to see them sent to the State Hospital. We will be more aware of this in the future. He can almost guarantee that it will never get that far again.

Mayor Adams stated it's a double-edge sword. It's a problem.

Judge Overholser agreed. It's going to be a great burden in cases where it's necessary to do that. There are ways to get around in depending on the seriousness of the case.

Mike Goimarac stated it wasn't just a small criminal offense. The person was convicted earlier that year with assault, then for camping in city limits. He read a portion of one of the police reports to give an indication of his mental state. The disorderly conduct charge, the dispatcher was advised that a white male with no shirt and dreadlocks was sitting in Uptown. He told the manager that he was going to carve a pentagram on the property manager's face. We had a person camping in Sedona limits that was committing crimes but was also mentally incompetent. Given all those facts, the prosecutor took the case seriously. Rather than dismiss the case and let him remain on the streets we thought we should proceed in that fashion.

Councilor McIlroy stated if this were to happen again, have the County Attorney prosecute the case in the Superior Court and let the county bear the expense.

Motion: Vice Mayor Hamilton moved to approve consent items f and i. Seconded by Councilor Litrell.

Vote: Motion passes unanimously with seven (7) in favor and zero (0) opposed.

4. Awards and Proclamations:

a. Awards:

(i.) Retirement Award Presentation to Police K-9 Joker and appreciation to his K-9 Handler Sgt. Will Lopez.

Interim chief Jim Driscoll stated Joker was our first K-9 officer. He's getting a little bit on in years. He's been responsible for a wide variety of activities. He's undergone narcotics detection training. He's worked within the city and both counties. He's responsible for removal and detection for thousands of pounds of marijuana, and also mushrooms, heroine, meth, in all the communities he's been involved in. He's responsible for putting a lot of bad guys in jail. Joker had the help of Sergeant Will Lopez. For the past eight years Lopez served with Joker. They've filled the much-needed void that existed in Sedona. They are a valuable resource in the community for K-9 training. Joker has shown signs of aging. We appreciate your willingness to pass the baton to the next K-9 and officer. He thanked both for their years of dedication. Joker and Will also perform various education courses about drugs. It's not all about bad cases.

Mayor Adams read the plaque.

Sergeant Will Lopez stated when he first put together the program Chief Vernier was very supportive. The Oak Creek Small Animal Clinic, Paul's Pet Food, Patty Gill and a private donor who also assisted in helping get the program put together. With their help as well as the support of Council, the department and the community we were able to make the program a success and we will continue to keep it a success.

Councilor McIlroy asked what will become of Joker?

Will stated he lives with him and his family and he'd like him to continue to.

Chief Driscoll stated that's common with all K-9's and their master, they stay with them and it's worked out well.

b. **Proclamations: None**

5. Summary of Current Events by Mayor/Council/City Manager.

Vice Mayor Hamilton stated the Sedona Community Foundation welcomed the new Arizona director to Sedona on June 4. He'll serve the state but comes to Enchantment often. There was a green energy event at the library. It looked very well attended. On June 4, Sedona's Park & Recreation held the first campout at Sunset Park. About 50 folks attended that. The city provided a continental breakfast, s'mores and star gazing. It was a fine event. There were folks who came up from the Phoenix area for this event. It was a really fun event.

Councilor Litrell stated the new councilors were all invited down to Tempe for training by Arizona League of Cities and Towns. It was very useful. The Sedona Main Street Association invited several of us to go on a tour of the Main Street district, in separate groups. You learn that it's much bigger than you think.

Councilor Rayner stated a week and a half ago he attended the Verde Valley Sustainable Energy Working Group. It's about bringing jobs into the Verde Valley and sustainable living. It's a very new group.

Councilor McIlroy stated he's council liaison for For Our City, which is an interfaith group. It tries to bring the faith-based community together to address the needs of our community.

Councilor Ward stated he volunteered to serve as the liaison with the Red Rock Ranger District. Heather Provencio is on assignment in Flagstaff and Mike Chavez is going to be the acting district ranger down here. He also attended Planning & Zoning. They had about five requests to defer a zoning request because of the current financial situation. These people only have one opportunity to go back to the well. He's going to suggest under item 15 we agendaize alternative opportunities for people to extract themselves from a zoning commitment because of financial issues. He's serving on the NAIPTA board in Flagstaff. He met with them on June 7. We had a long discussion about the Roadrunner.

Mayor Adams thanked Vice Mayor Hamilton for standing in for him for the last 10 days. He took a vacation for the first time in the past two years. We have 32 committees that we are represented on. Before this Council was seated he was a representative on 20 of them. He thanked them for taking on those responsibilities. On June 13 is Sedona Taste. On June 15 is a Mayor's Lunch at the Barking Frog.

6. Reports and discussion on Council assignments.

Vice Mayor Hamilton stated he and Tim met with the Verde Valley Intergovernmental Group. It's a mix of city councilors, mayors and city managers from around the communities. Councilor Ward joined them there as well. It was interesting to learn of the \$17 million recreation center in Cottonwood.

Councilor Litrell stated she's the liaison to the Housing Commission. They're working particularly how it relates to the community plan. They indicated there have been four applications for accessory dwelling units. One of them is becoming legal when it wasn't before. One has been a guest unit and is being turned into a rental area.

Mayor Adams stated there was some concern from the community about an overwhelming amount of people applying for accessory dwelling units. It'll probably be more like the predictions of staff, 6-8 per year. Tomorrow morning at 3, Councilor Litrell and he are going to Washington D.C. they will testify on behalf of the city to support NSA designation. That will be Thursday morning at 10:00. On June 18, he will attend the Arizona Town hall Board Meeting in Phoenix. It's an Arizona think-tank. Also on that day, Vice Mayor Hamilton will attend the Yavapai County Manager/Mayor meeting in Prescott Valley.

Councilor DiNunzio asked the mayor if the subcommittee hearing will be on the C-Span channels?

Mayor Adams stated yes, contact Keep Sedona Beautiful for the link.

7. **Public Forum: Limit of three minutes per presentation.**
This is a time for the public to comment. Council Members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. 38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date.

Mayor Adams opened the public forum at 5:02 p.m.

Rand Decker, Sedona, stated Sedona is holding it's largest ever invitational swim meet June 11 and 12 this weekend. We'd like to invite the Council. This will bring in about 500 people. The Kingman Town council gives the Kingman swim team grants because it fills their hotels.

Mayor Adams closed the public forum at 5:05 p.m.

8. **Discussion/possible action on an alcohol policy for City parks.**

Tim Ernster recommended we continue with long-standing policy of no alcohol in the parks. There seems to be a lot of controversy. Most of what he's heard has been opposition to alcohol in the parks. He's not seen an outcry for supporting alcohol in the parks. He recommends continuing with the long-standing policy of no alcohol in the parks.

Andi Welsh stated the issue came up in 2007 at a request from the Historical Society to be able to provide alcohol at some of their events. At the time it was turned down by Council. Last fall it was asked for staff to look at the issue again. Council told us to come back with a more vetted procedure. We went out to the public and had two open houses. The commission had three options at the April meeting. The commission recommended to Council to allow alcohol at Jordan Park only and allow for the temporary use process. Jim Windham is here to explain that. Council would approve all the temporary use permits. Tonight we're here for direction or possible action to move forward or keep the policy the same.

Mayor Adams took it to the public at 5:09 p.m., not seeing any he brought it back to Council.

Councilor Rayner stated there's a formula for booze and it's wrong, being a chemist he had to point that out. When he looked over all the information, there are an awful lot of good points made. Two of the parks are where children play on a regular basis. It doesn't make any good sense to him to provide alcohol at these parks. He's going to deny the right to provide alcohol.

Councilor Litrell asked what's the benefit to the city in doing this?

Andi Welsh stated it would provide an additional venue for people to hold weddings, family reunions, at a lower cost than a private facility. There would be some additional revenue with a permitting fee. Other than that it's your perception on where you stand on the issue.

Councilor Litrell stated the Historical Society isn't pushing for it. Is there pressure coming from any area to do this?

Andi stated no.

Councilor McIlroy stated he sees no purpose served in changing the policy. We can save a lot of time by moving to a vote on this.

Vice Mayor Hamilton stated he's sure we can work out a system that would be a fairly safe one in terms of using alcohol in the parks but as an elected representative it's obvious to him that the public doesn't want to go there.

Councilor DiNunzio stated this got to this point because of the Open Meeting Law process, if we were able to talk to each other; we wouldn't have had to put it on the agenda.

Councilor Litrell stated staff has down a Herculean job to exploring this one. You did a great job.

Andi stated Bob Huggins did a lot of heavy lifting behind the scenes.

Mayor Adams stated regarding the will of the people, his concern was that everyone there was someone who lived adjacent to the parks. No one there lived in other parts of the city but we did everything we could to go out to the public. He has to go on what he heard from the public that did respond. He supports that they don't want alcohol in the parks. There were some accusations that staff indicated that there would be no alcohol in the parks, whether it was a misunderstanding or miscommunication, he had some concerns about that. Staff wouldn't make a statement that would be a decision of Council.

Councilor Ward moved to approve that the City continue to prohibit alcohol use at the parks. Seconded by Councilor DiNunzio. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

- 9. Discussion/possible action regarding the formation of a citizens advisory committee and approval of a general organizational structure for the Community Plan update and appointment of Council members to make recommendations to the full Council on committee appointments.**

Mayor Adams stated he doesn't believe it's the job of the council to set up the organizational structure. The idea is to approve or not the citizen advisory committee. Staff can manipulate the chart, that's not what we're doing here tonight.

Mike Goimarac stated he'd give an overview of the statutory framework we have to work under in amending a community plan. Adopting or amending a community plan is a legislative act. Anytime you act in that capacity it's expected you have a lot of discretion in how you go about doing that. One of the first requirements that the legislation puts on Council is you have to establish a public participation process. It says we have to adopt written procedures to provide effective, early and continuous public participation in the development of the general plan. We have eleven (11) pages of public participation procedures already. They can be amended by Council at any time by way of resolution. You might want to begin by looking at those procedures. If you see an advisory committee would facilitate a public participation process he'd suggest that be added from the oversight. They refer to an entity known as the "Planning Agency" that means the official body designated by local ordinance to carry out the purposes; it may be a planning department, the legislative body or any combination. It's been defined in our ordinances as Planning & Zoning Commission. It put the burden on the commission to be the entity to develop and submit a community plan to Council. It can also include a planning department. If you want to redefine that you can do that under the parameters of this statute. The role of the planning agency, under this statute, transmits proposals to the governing body and the planning commission. Under state statute the planning commission has to hold public hearings. The action is then transmitted to Council. This is the final part of the process, when you look at it. You have to hold at least one public hearing. You can hold more than one. Any amendment has to be approved by council by a two-thirds (2/3) vote. That's the general scheme you're required to work under.

Mike Raber stated Paul Chevalier proposed the idea of a citizens group to involve the citizens more actively and create a structure that was less staff-driven and more inclusive. Although Planning & Zoning (P&Z) was largely receptive to the idea of an advisory committee they had concerns about the original proposal that the advisory committee would be managing the process rather than working with the commission. It was revised by the commission on June 1. It would be appointed by the Council and work in collaboration with P&Z. it would oversee the public participation process. There were three subcommittees spelled out. They would look at format, plan elements and public participation. On May 24 staff worked with Mayor Adams and Vice Mayor Hamilton and Mike Bower. We talked about a different approach. The subcommittees wouldn't be spelled out because the format might be dealt with later on. That was more of a process discussion. It's important to note that because it would need to involve citizen planning professionals. We included an illustration of that process in your packet in the June 3 memo. On June 1 we presented both approaches to P&Z. They agreed Council establish a citizen committee. They support the more recent organizational structure that includes a process to bring in citizen planners to develop a visionary view of what the community would like Sedona to become. P&Z recommends the committee have strong representation from planning professionals. They want it to include the P&Z chair. It should be 7-9 members. They didn't recommend inclusion of a Councilor. The selection process would be Council would designate three members to make recommendations to full Council. Council would formally appoint a committee after we had a notice out. In your possible motion council can approve the general organizational structure rather than the earlier version. Staff met with Vice Mayor Hamilton earlier today. It's evident that as this thing has evolved, it's creating a lot of confusion. Rather than try to discuss organizational charts. Staff suggests council reach consensus on the role and size of the committee and give staff

direction on how to solicit members for the committee. We suggested some draft language that's mostly in the memo that accompanied your packet, but we amended that a little bit.

Mayor Adams asked if "general organizational structure" gives staff latitude to change things around?

Mike Raber stated you could change "structure."

Mayor Adams stat the structure would be determined by staff. We have a specific structure here does that confine us to that or can we modify that?

Mike Goimarac stated that language might become a little clearer. Rather than try to modify it now, it might be helpful to see what the consensus is on those other things.

Mayor Adams asked if the language will confine us to the chart we're looking at?

Mike Goimarac stated "as outlined" is problematic. You'd want to change that language.

Mike Raber stated if council is in agreement, if we could get direction on soliciting potential members that would be valuable. Whether you want to establish criteria, P&Z wanted professional planners on the committee, is Council in agreement? Do we want application forms or just submit names, would there be an interview process?

Mayor Adams stated depending on the direction we go, we could have staff input in terms of what characteristics to look for when it was put together and we'd keep that in mind as we make our selection.

Mayor Adams opened it to the public at 5:36 p.m.

Paul Chevalier, Sedona, stated the proposal in front of you will add an element of democracy to the creation of our next Community Plan. He urged Council to adopt it but with one important clarification. The manner in which the goals to be put in the Community Plan are to be determined needs to be clarified. The goals should not be decided by the committee or P&Z, but by the people of Sedona. It's past the point where it's acceptable that a few citizens make a decision for the community. Council should require the citizens committee present only community goals they believe the majority of citizens have determined to be their highest priorities. That's going to take a lot of work and effort. We have to effectively harness the use of the internet to get a handle on what the people want. If we do that and limit the number of goals to what could realistically be achieved in 10 years you'll have a meaningful Community Plan. If you require that the goals in the plan presented to Council be the goal priorities of the citizens you'll get a more meaningful plan and you'll show the people that you are willing to follow the will. He suggests that if the proposal in front of you is adopted it will be a joint effort of P&Z and a citizens committee. P&Z had developers, architects and planners. Therefore it makes sense for the citizens committee to be comprised of people who compliment them but not duplicate them. All three meetings this spring only had 85 people, there is much work to be done to regain the public trust. Select people who are well respected in the community for their community vision. Appoint members who are committed to following the will of the people.

Ernie Strauch, Sedona, stated he hadn't talked to Paul Chevalier before this presentation. He seconds 100% what Paul just said. He asked Council to consider that if they go forward with establishing a citizens committee, that it be truly advisory and not take the place of the citizens of Sedona. Paul made that very clear. He's behind the power curve because in the documentation on the internet, there was no information relative to what was sent to P&Z on June 1, so he was unaware of what their recommendation was. Having just heard it, he's in favor of the focus on the process and on the aspect of developing visual plans that lead down to alternatives that the community gets to make their preferences known. This seems reminiscent of the contact sensitive process used on the SR179.

Denise Barnhart, Sedona, stated she thinks the idea is great, but as you listen to each of you tonight in all the things you participate in as liaisons, all of these subjects far exceed traditionally what you see on a P&Z which tends to look at projects, traffic, and zoning. If you look 10 years from now at what the critical aspects of Sedona will be, it'll largely be the things you talked about tonight. The subject far exceeds the tradition of planning it speaks more to what people want to be as a community. Council and the community need to work together toward the broader picture.

John Sather, Sedona, stated he was involved in the first Community Plan 20 years ago. That first plan really rallied the city. It's the basis of good planning to have a citizens advisory committee. In having a committee, it reduces it to the essence of citizenship and utilizes the talent you have in the community since we're not going to pay for consultants to do this. You need to tap into your citizen talent that has expertise in this. This is a process you should adopt. This is very common.

Mayor Adams brought it back to Council at 5:48 p.m.

Mike Raber stated you have a lot of leeway as far as the name goes. Legal did advise against using "taskforce" but you can use any term that you want.

Mayor Adams stated so "Community Plan Citizens Committee" says it.

Mike Raber stated we used "oversight committee" rather than "citizens" because there would be a mix, but you could call it anything.

Mayor Adams stated "oversight" means they're in charge. Mayor Adams stated wouldn't the primary purpose be for the committee to find out the priorities of the city?

Mike Raber stated they'd be at the forefront of the process to help us determine those things.

Mayor Adams stated that would be part of the committee's goals and objectives.

Paul stated the key thing is when the final plan comes out, element by element; those are the four top priorities of the citizens.

Mayor Adams stated so if we gave direction to staff we'd say goals to be assimilated by the citizen committee.

Mike Raber stated it involves also P&Z and staff and other inputs. You want those to be citizen driven, that's the whole purpose behind having a committee like that, but coming up with the final goals might be a collaborative process.

Mayor Adams stated "goals and related priorities to be driven by the citizen committee" it would be the primary driver or assimilating this information. The appeal to Paul's idea was getting over the problem where it's staff driven. If it's initiated by a citizen committee he thinks the citizens will be more likely to participate.

Mike Goimarac stated the public participation process is outlined in the statute so that's in line with that. Whatever this committee is, we need to incorporate into the public participation process because we don't have a citizen committee

Mayor Adams stated so, "determination of goals and related priorities to be primarily driven by the citizens committee."

Mayor Adams stated regarding the selection of the committee, do we have time to put out applications?

Mike Raber stated we have until 2013 to get the plan voted on. We set up a process that gives us a year leeway, so we have plenty of time to get that in place.

Mayor Adams stated we could get an ad out in the next couple weeks. In a month to month and half we could have it put together. If we put it out for applications that's the fairest way to do it, then the selection committee can interview them, then it'd come back to full council for approval.

Mike Goimarac stated before you start up a new component of public participation you need to change the Community Plan to allow for that. The first step you have to do is put in writing what you want to do before you form the committee.

Councilor DiNunzio stated he's framed it in his mind in a certain way. What he heard from Paul Chevalier is that there's a perception in the citizenry in regard to how the city runs by elites. As he studied this desire to expand citizen involvement in government, he came to the conclusion that to broaden citizen outreach past the elites. His initial thought is with that organization set up so this citizen committee should be broad in nature. If it's narrowly defined and includes Councilors and committee members we'd diminish the opportunity to be objective. We ought to broaden it to a size so we get representation from all the constituencies that make this town what it is. That number ought to be bigger than a small group. We could end up with five more elites in the eyes of the community. He's an advocate for empowering the committee and expanding it to as high as 12. If a member of P&Z does attend, they'd be ad hoc, not a voting member with power. If we're going to throw the door open, let's go for it. Let's really tap the resources out there and let it flow. He thinks it should be made up of 12 people and they not include elected or appointed officials of the city. Those members would be ad hoc members. They would pick their own chair.

Vice Mayor Hamilton stated he's going to be a contrarian here. The concept of a citizens' advisory committee leaves him cold not because he doesn't support citizen involvement. The best this kind of committee can do is bring in citizens' involvement. The communication staff handed out earlier is based on comments he had with them this afternoon. The concept was an oversight

committee was an intentional name. If you look at the second paragraph, it blends the other suggestions into a single oversight committee to oversee the process of formulating the draft community plan. It would work with staff, P&Z and working teams to create that draft plan. What he sees with a citizens advisory committee paired side by side with P&Z we would have to be so precise on who is going to do what. If not, we're inviting a tug of war that is not going to serve us at all. The concept of the oversight committee is to take away this dual and switch those roles into what the statutes tell us they need to be. P&Z needs to be the first primary filter and public hearing holder and will be involved in all stages. To put that side by side with a citizen advisory committee leaves him uneasy. So the process of an oversight committee made up of people to guide the process is truly what he thinks we need. Citizens' involvement is through a series of workshops and internet, simply having a committee says that's it for citizens. Let's create a process that gives a capable committee the oversight function of creating a draft. We need a single oversight committee that's made up of the public to guide the process, not to be the filtering realm for citizen input.

Councilor Rayner stated according to the statutes the real planning agency is P&Z. P&Z voted unanimously to set up a citizens advisory committee. In lieu of that do you really have to amend the Community Plan?

Mike Goimarac stated this document called Public Participation is not part of the Community Plan. It just says what each city has to set out. It can be amended any time by resolution. The intent of the legislature was to say before you get going you need to define how the public is going to be involved in the process. They don't give you any more direction than that other than it has to be very pervasive. You can incorporate an oversight committee or whatever you call it.

Councilor Rayner stated he sat in on the original presentation Paul Chevalier made to P&Z. He was disappointed with P&Z's reaction. This is an important process for the city. He was pleased when they voted unanimously to support it. They point to involving planning professionals and he doesn't understand exactly what they meant. We have Mike, we have architects. He looks at a Community Plan as a vision. A vision to him doesn't mean talking about ordinances or codes. You want to make sure the people's view of Sedona is what's incorporated. A true citizens advisory committee has the best change of more citizen participation. There is a certain amount of apathy from our citizens. The greatest chance to bring people in will be through citizen involvement. There's tremendous talent in the community we should tap into.

Councilor Ward asked Paul how he perceived the role with Council and P&Z?

Paul stated the committee needs to work with citizens very closely. Now with the internet we can communicate directly. P&Z plays a very valuable part in this process, but they don't play the only part. There are many aspects of the plan that don't deal with development. Working with P&Z and Community Development will make sure it's formatted in a way that's useful. The new plan should be 50-80 pages, not like the current 400 pages. A citizens advisory committee has the best chance in getting the people involved. He doesn't see this as a turf war with P&Z. when he made his first presentation to P&Z it came across that way but that's mellowed.

Councilor Ward stated what are the criteria or composition of the advisory committee?

Paul stated he'd start with people who have shown leadership and interest in the community. People with vision. Everyone needs to believe in the will of the people. People who are willing to work together. He thinks we can generate enough excitement out there if this is done right.

Councilor Ward stated we've been talking about professional planners. Where do they fit into this?

Mike Raber stated we have talented individuals out there we've worked with in the past that have drafting expertise to put things visually out there. P&Z was specific that they wanted that representation on the committee, but the reality is, that expertise can be utilized either way. P&Z concern was not having the continuity of that perceptive involved in that committee from the start.

Councilor Ward stated it seems nebulous. There aren't clear roles. He'd feel more comfortable dealing with a concrete proposal.

Councilor Litrell stated she sees it more clearly. She sees the citizen advisory committee and the importance of making the plan reflecting the goals of the community. She sees it as a valuable resource that can motivate the public and be made up of diverse members of our community. We're already beginning to see things that are important to people. The citizens committee can excite the public about being involved and it can manage the public process. She also sees them as an oversight committee for what happens with the plan. She doesn't see the committee saying "here's how we have to get it done." When you have a community vision then the experts on P&Z can look at it and see how these things are possible. Staff will write the details of the plan, it's then approved by P&Z. it's watched over by the committee. Then it comes to Council. She sees those four roles as complimentary, working together. She'd like to see a strong participation from the community. She sees the opportunity to have some planning experts in the community, who has a great vision, on the committee. She'd lean toward 9 people.

Councilor McIlroy stated he sees this committee as being larger than 7-9. He'd like 12-15. We should draw from every segment in our community. We need experts from P&Z to bring that dimension. He sees it being large enough to be the driving force to write the community plan. We create it, so we can't avoid the open meeting law. If we approve the concept that will bring the community together. It won't be a turf battle. If we can draw on all the segments and expertise of our community, the community will embrace it.

Councilor DiNunzio stated he agrees that the committee isn't the voice of, but is the resource that listens to the voices of the broader community. The more the committee is developed as a part of the process and not a driver, the more productive it will be. He's convinced that this process involves a greater degree of trust. How this committee ultimately ends up will continue to develop. It may start with a certain number and grow to a bigger number or not. He's okay with saying "let's start here." The issue of planner or the role of P&Z, working in such a dynamic process of developing a vision is so dynamic it's hard to determine the difference between dream and a vision. Some of us might have appetizing dreams that can't come to fruition. That's the role of planners and staff and P&Z saying it's not likely we can get that far. There has to be some top down involvement also in order for it to be more manageable.

Vice Mayor Hamilton stated he still doesn't know what the committee will do. We've heard lots of visions. They're going to inspire the public but he still doesn't know what they'll do. That's

the problem. We can figure out the process for their selection if we knew what they're going to do. If we had a list, so we knew what they're jobs are. We don't have a process roadmap and that's what we need. Just calling it a citizens' advisory committee gives him chills. Maybe we have to defer this and come back.

Councilor Ward stated he'd like to encourage Council to consider a motion instructing staff to take our comments and come up with a proposal for our June 22 meeting.

Mayor Adams agreed. We're trying to move forward with a committee.

Councilor Litrell stated it's clearer in her mind. She's attended several public participation meetings. If we task this committee with taking charge of the public participation process and working with staff on the steps needed over the next months that would be the first part of it. Second would be what they're looking for in the public participation process in terms of goals. Right now we've had participation of 80 people. Let's bring that up to hundreds and let it be lead by citizens.

Mayor Adams stated he tried to smooth this whole discussion out by defining what this committee would be doing. What he said was "citizen committee would determine the goals and related priorities for the Community Plan, would be assimilated and primarily driven by the citizen committee."

Mike Raber stated that's what he recalls him saying.

Mayor Adams stated we were putting Council on top, then P&Z on one side, and the committee on the other. Now he sees it as a funnel with the committee getting the information then funneling it down to P&Z, then they put it in a format, then it would move to council with all those recommendations. It's a simple organizational chart.

Mike Raber stated he agrees, but defining the overall role is as far as we've gotten and it depends on the comfort level of council to do that.

Mayor Adams stated there needs to be a continuous public participation process and that would be the goal of the citizen committee.

Mike Goimarac stated maybe you could take baby steps and formulate a citizens committee to look at the public participation process and come back with recommendations for amending it including how they'd be involved in that process. Maybe you need the help of the committee to define how that process works and expand it what it currently is. A motion could be to appoint a citizens committee to review the public participation process for amending the Community Plan to consist of X members appointed in this member. You could always change or add to it.

Mike Raber stated that could work. If it's incremental like that this could take awhile to pull this off. We could proceed like that with committees that are devoted to working the public participation end first.

Councilor Rayner stated the primary objective is to come up with the best Community Plan. The apathy has been from what the public has seen go on in the past. By doing this and by pulling

people in, apathy will be lowered, the public will gain confidence in Council. That's a very important part.

Councilor McIlroy stated if we form a committee that reflects the spectrum of our community we then give them a mandate that they have to look at land, water, streets, etcetera, that answers Cliff's question of what we tell them to do.

Vice Mayor Hamilton stated that was his oversight committee he described an hour again. This committee will be involved in public participation process but that process leading to establishing goals, now we're talking about what they're going to do, it's an oversight committee. It's more than a citizen advisory committee. It's going to be a blue ribbon panel that will be doing a major part in this whole thing.

Mayor Adams asked why can't we say "citizen committee will be responsible for determining goals and related priorities for the Community Plan."

Councilor Litrell stated they're going to have to go further than that so if we were to appoint a citizen steering committee of 7-9 or 12 to manage the public process to determine the vision goals and priorities for the Community Plan and to stay with the process in an oversight capacity.

Mike Raber stated a lot of what we just talked about is in those few paragraphs maybe you could add to that. If it's necessary to add a little specificity we could put that in there as well. He thinks it describes the general framework.

Vice Mayor Hamilton stated steering committee is the first terminology he used.

Councilor DiNunzio asked Vice Mayor Hamilton as he sees the steering committee developing the plan, in that process staff and P&Z will have active input, when it lands on the desk of P&Z do you see P&Z in the approval role? Is the committee recommending it?

Vice Mayor Hamilton stated his vision is if we are doing as the first sentence of the 2nd paragraph says, by the time we get to the end of the planning process, yes, landing on P&Z desk will be more of a formal process than informative.

Councilor DiNunzio asked if you take a unanimous vote?

Vice Mayor Hamilton asked if P&Z has a percentage passage?

Mike Goimarac stated no, just majority.

Vice Mayor Hamilton stated if we've done it right, everyone should have ownership in it by the time we get to the full draft stage.

Councilor DiNunzio the process can't get contaminated by personalities or special interests. Because of the amount of involvement with the broad based community, the product that comes out will go up the official channels of city government and be preordained.

Mike Raber stated it goes through a formal public hearing process as well. Sometimes things change then.

Mayor Adams stated “citizens steering committee will initiate and guide the public processes to determine community goals and related priorities for the CP additionally this committee will work collaboratively with staff.”

Mike Goimarac stated that’s a good motion. The only concern is if you have the committee jump into the public participation process before you amend the procedures they’re not complying with the law. He suggests a motion “to form a citizen steering committee consisting of X members and charge them with the initial responsibility of reviewing and recommending changes to amending the Community Plan. The committee will also work collaboratively with staff, Council, P&Z and working teams to oversee the draft Community Plan. Staff is directed to initiate an application process for selecting members of the committee. Members will work at the pleasure of Council.”

Mayor Adams stated we include his language about the public process then his language.

Mike Goimarac stated his language, “to form a citizen steering committee consisting of X members and charge them with the initial responsibility of reviewing and recommending changes to the public participation process for amending the Community Plan”.

Mayor Adams added, “Subsequently the Citizen Steering Committee will initiate and guide the public process to determine community goals and related priorities to be included in the Community Plan. The citizen steering committee will work collaboratively with staff, public, City Council and the P&Z Commission and working teams, as applicable, to oversee the formulation of the draft CP. Ultimately, the draft plan will go to the P&Z and Council at the beginning of the mandated 60-day review and subsequent public hearing process. Staff will facilitate the planning process and Plan preparation. This role also includes providing logistical support, professional advice and communication to and between Committees”

Mike Goimarac stated we’ll give them the current public participation process. It’d be up to them with how they’d want to involve the public.

Councilor DiNunzio stated so the change is how the committee is going to function.

Mike Goimarac stated they’d also include how they’re involved in public participation if they are involved. You need to change the public participation process that’s on the books before you start the process.

Mike Raber questioned the solicitation process.

Mayor Adams stated we need consensus. Could we settle on 11 members? How about 9? Not to exceed 11?

Council agreed.

Mayor Adams asked if council agreed to a public notice to solicit applications.

Council agreed.

Mayor Adams asked who would like to be on the committee.

Councilor Litrell, Councilor DiNunzio, Mayor Adams and Councilor Rayner volunteered. Councilor Litrell agreed to drop out.

John asked if that includes one Councilor and one P&Z member?

Vice Mayor Hamilton stated it's essential they are represented to bring information back to both bodies.

Councilor Ward asked if that'd be an ad hoc liaison function or full membership?

Mayor Adams stated you'd be an active member on the committee.

Council agreed there should be a Councilor on the committee.

Mike Goimarac stated you don't need to select that Councilor now.

Council agreed to have a P&Z member.

Mike Raber asked if Council wants criteria selected tonight.

Mayor Adams stated he prefers staff and P&Z recommend the criteria they would like to see and the Councilors will take that into consideration.

John stated we'd funnel that criteria to the subcommittee.

Vice Mayor Hamilton asked if the selection committee should include P&Z members?

Council agreed on including two P&Z members on the selection committee.

Mike Raber stated we can put that on the next P&Z agenda. We need to be sure that we've talked through criteria before we put that out.

Mayor Adams stated we need to make people aware of the qualifications.

Motion: Mayor Adams moved to form a Citizen Steering Committee consisting of not to exceed 11 members and charge them with the initial responsibility of reviewing and recommending changes to the public participation process for amending the Community Plan. Subsequently the Citizen Steering Committee will initiate and guide the public process to determine community goals and related priorities to be included in the Community Plan. The citizen steering committee will work collaboratively with staff, public, City Council and the Planning & Zoning Commission and working teams, as applicable, to oversee the formulation of the draft Community Plan. Ultimately, the draft plan will go to the Planning & Zoning Commission and City Council at the beginning of the mandated 60-day review and subsequent public hearing process. Staff will facilitate the planning process and Plan preparation. This role also includes providing logistical support, professional advice and communication to and between Committees. Seconded by Councilor McIlroy. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

Mike Goimarac stated you can direct staff to formulate that team.

Mayor Adams stated we decided which Councilors will be on the selection committee that will be up to P&Z to decide their two.

Mike Goimarac stated you can do that without a motion and approve the committee the next time you bring it forward.

Mayor Adams called a 10-minute break. Council resumed at 7:20 p.m.

10. Discussion/possible action on approval of contract for Albert Holler & Associates to perform sales tax audits on behalf of the City including an overview of the revenue management program.

Tim Ernster stated in November the Council identified sales tax issues as a major priority for the upcoming fiscal year specifically there were three issues including sales tax audits. Council has taken the necessary steps for the city to conduct sales tax audits. The other issue was a formal business licensing program. The big one was self collection. This evening we want to talk about awarding a contract for a sales tax audit. Jodie Filardo will give you an update on the other pieces of this pie and where we'll be over the next year. This is something we asked Jodie to do. She didn't have any experience in this area before this. Jodie has done a great job with it.

Jodie Filardo stated this evening she'll provide detail about sales tax auditing. Each of the three will be brought individually in the future. It was prioritized as a top project at the Council Retreat in November 2009. Since then it has been broken down into four separate projects: 1/Tax auditing service, 2/business licensing, 3/tax amnesty and 4/third party sales tax collections. Based on action taken January 12, 2010, the City may now conduct sales tax audits that supplement those undertaken by Arizona Department of Revenue (ADOR). We issued a request for proposal seeking a tax auditor. We received five responses, interviewed all five firms and have selected Albert Holler & Associates. The firm will perform at least 25 audits in FY 2010/11 for a fee of \$60,000 inclusive of travel expenses. This amount is already included in next year's budget. The firm comes highly recommended. It's worked in Gilbert, Cave Creek, Fountain Hills, Marana, Bullhead City and Paradise Valley. Two individuals represent the firm. The auditor and City will determine the list of businesses for audit. The auditor will begin July 1 and the firm will analyze inconsistencies worthy of an audit. The business will be notified once selected to expect contact from the auditors. The firm will conduct the audit without City participation. The contract provides for two consecutive one-year renewals. It is expected that results will be presented to you no later than March 2011 as part of next year's budget process. The second project is the business license project. Business registrations are currently required in order for a business to operate in Sedona but there are no penalties or enforcement for lack of compliance. Estimated for mid-summer, a new mandatory business license code will be presented to you for consideration. The draft will be reviewed by interested business organizations such as the Chamber of Commerce. A fall implementation is anticipated. The third project is the tax amnesty project. In 2009/2010 several communities offered tax amnesties programs including the state, the City of Phoenix and Glendale. They offer amnesties from penalties and occasionally interest due if companies step forward and pay obligations in full. The intent of the program is to generate immediate tax flow. The state granted amnesty to 648 tax payers. They received over \$31 million as a result; an average of \$49,000 per taxpayer. The City of Phoenix offered over 700 amnesties and collected \$3 million in additional revenue; an average of just over \$3,000 per taxpayer. Over 618 taxpayers came forward in the City of Glendale, which is 4% of their tax base, generating

\$1.3 million, an average of over \$2,000 per amnesty taxpayer. Sedona has 3,300 paying sales tax. If 4% availed of the amnesty program then 142 taxpayers would come forward. To be conservative if each who came forward paid only half of what Glendale taxpayers paid then we might project more than \$138,000 in additional tax flow as a result of amnesty. This is just a projection based on the performance of other cities and may not reflect Sedona's actual experience with the program. We hope to bring program details back to you by the end of the summer, planning on a fall initiation. Participation in tax amnesty doesn't exclude the taxpayer from audits, but eliminates the payment of outstanding penalties in exchange for prompt payment of full taxes dues. The fourth is the third-party collection of sales taxes. Our tax collections lag by two months. Getting our money faster would be advantageous to the city. Once the first three projects are underway, staff will bring back consideration of third party sales tax collections to you, estimated to be in early 2011, targeting a July 2011 implementation. Depending on the progress with each of the projects that time frame may shift in either direction.

Mayor Adams took it to the public at 7:33 p.m., not seeing any he brought it back to Council.

Councilor Ward asked when will the 25 audits occur.

Jodie stated the fiscal year.

Councilor Litrell stated she thought we were going to start self-collection sooner.

Tim Ernster stated we might be able to start the first of the calendar year, but we need to have the other two components in place. It may slip a little bit.

Vice Mayor Hamilton asked if the law makes someone comply with the sales tax auditor?

Mike Goimarac stated a lot of the auditing is done with information we get from other sources.

Tim Ernster stated businesses are required to pay sales taxes that are in arrears.

Councilor McIlroy asked if the business community has reacted to this collection/auditing process?

Jodie stated they are aware of the tax collection process. The Chamber of Commerce received a draft of the business license plan. We'll do a public process outreach when it's prepared. She's heard favorably from the chamber and the Main Street Board.

Jodie stated there are a couple of ways firms get selected. The auditor will select businesses that he believes will provide us the best return on investment for going after those businesses. So it'd be businesses whose sales tax returns look out of keeping with others in that market space. There are various ways.

Councilor McIlroy stated he can see auditors focusing on a particular business and he can see businesses not cooperating. Is there a criminal connection to the ordinance?

Mike Goimarac stated we have the same authority ADOR has currently. It's the right to inspect their books and show their sale receipts. People get audited, penalized and he hasn't heard of

people just not cooperating. There is some mandatory cooperation, but he doesn't know what's statutory required.

Councilor McIlroy stated it'd be nice to find out before we implement the program.

Jodie stated the auditor we're recommending has probably come across that before. She can get that answer and send that to Council.

Tim Ernster stated we've had a number of meetings with the Lodging Council, the Chamber and the Main Street program. The one common theme is they want to have a level playing field. They feel there are people aren't there that aren't paying their sales tax. We've been having regular communication. So far we haven't had any resistance at all. Once we get the final draft of the business license ordinance finished we'll get the feedback from the business community. There are enough steps a city can take to force a business to pay its back taxes. We can get you a better answer on that.

Jodie stated the reason why they're all coming forward as a bundle is because should a business refuse to comply and not pay their back taxes, we would revoke their business license, they won't be able to conduct business in city limits.

Councilor DiNunzio stated when we do an audit, are we required to report our findings to the state?

Jodie stated yes we are.

Councilor DiNunzio stated we have 3,300 businesses paying taxes. Of those, how many are licensed.

Jodie stated we have 1,600-1,800 that are registered. But we do not have the sales tax number for all of our businesses in the city limits. She can't take our business registration data and compare it to the sales tax data and know that we have the same guys.

Councilor DiNunzio stated so we're starting from ground zero. Do we have the resources to make that happen?

Jodie stated thanks to Barbara we'll work with IT to bolster IT support for these things. We're hoping to put the work where the information is. We hope to provide web access to a business can go online and put in all the information themselves.

Councilor DiNunzio asked if there's an annual fee?

Jodie stated right now we're contemplating an annual fee like we have today with business registration. Presently the registration is \$25/year.

Tim Ernster stated we don't view the business license as revenue producing activity. We're going to keep the fee as low as possible.

Councilor DiNunzio stated so July 1 is the kick-off.

Jodie stated for auditing. They have to pay sales tax regardless if they're licensed or registered. That process won't delay the auditing.

Councilor Rayner stated after the audit, if a business has been found to owe back taxes, is there anyway the state can get their hands on it rather than the city?

Jodie stated if we have to turn over the names to the state, this auditor will audit for back taxes to the city. If they owe to the city they'll probably owe to the state as well. We have questions in to the ADOR now to figure out whether the tax payment can be written directly to the city, which is our expectation or whether it has to be sent to ADOR and then given back to us. We believe the check can be written directly to us.

Mayor Adams stated the insurance is \$2 million. Is that low?

Jodie stated that's more or less state average.

Mike Goimarac stated that's per claim.

Mayor Adams stated the contract says they'll contract for at least 25 audits. What does that mean?

Jodie stated some audits can go faster than others. Auditors can help us bring in money since you'll review his contract in a year. It's in his best interest to work exponentially on our behalf, so that's where that comes from.

Mayor Adams stated on page 10-9, the last sentence says the consultant can complete such work it deems necessary after termination.

Jodie stated if we were to terminate a contract and the auditor was in the middle of something the auditor will finish whatever he was working on but after termination none of that will be chargeable to the City. He or she will stop work and it won't cost us money.

Councilor DiNunzio asked how long does an audit normally take?

Jodie stated she doesn't now. They're a 2-member firm and he's contemplating hiring an additional staff member. He uses software and he has tax payments businesses have paid to the state before he walks through the door.

Councilor DiNunzio asked if they've had feedback from other cities on the auditor?

Tim Ernster stated they consistently generated \$3-4 for every \$1 we spent on the audit in Bullhead City. They were very good. The taxpayer had the right to contest their findings, so it can drag out for awhile. Some audits take 3 months some take 18 months.

Councilor Litrell asked if \$65,000 is his total contract for the year.

Jodie stated it is, including travel.

Tim Ernster stated he's very competitive in terms of what he's charging. He's very efficient at conducting them.

Councilor McIlroy stated in the evolution of all this when do we start the process of collecting our sales tax?

Jodie stated she hopes to start third-party collection at the start of 2011. She doesn't want to commit to that because she's new to the whole process, but she doesn't know what she doesn't know yet. She's aiming for July 2011. She's hoping to bring that in, but she doesn't want to commit to that tonight.

Vice Mayor Hamilton moved to approve a contract between the City of Sedona and Albert Holler & Associates. Seconded by Mayor Adams. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

11. Approval of a bid award for the Sunset Park Tennis and Basketball Court Replacement Project to Sunland Asphalt in the amount of \$235,712.10 for Base Bid plus Alternate #1 in the amount of \$339.00.

Andy Dickey stated this project was developed to address cracking that occurred in existing courts. The best solution is construction post tension slabs over the existing courts. Our consultant designed post tension slabs to be placed over the existing courts. A portion of the sidewalk leading to the courts will also be reconstructed. The tennis and basketball courts will be reconstructed for \$235,712.10. To replace the sidewalk will be \$339. The total cost will be \$236,051.10. This is in the existing and proposed budget for the project.

Mayor Adams opened it to the public at 8:01 p.m., not seeing any he brought it back to council.

Councilor Litrell asked where do the funds come from?

Charles Mosley stated he thinks it's just coming out of the General Capital Project.

Tim Ernster stated he thinks it was impact fees that were being used for this. He can get the answer to Council.

Councilor Ward asked what was the typographical error adjustment?

Andy stated some of their bid amounts; usually you say each bid item is a certain quantity. Say you have 1,100 square feet of sidewalk and the bid price is \$500/square foot, it should be the quantity times the unit price is the total bid, well that didn't add up. We were forced to use the language and contact the bidder and say you made typos, here's what your bid should be, do you agree with that? They were minor adjustments.

Councilor Ward asked how much utilization the courts get?

Charles stated he'd rely on Parks & Recreation for that. He knows it gets regular play.

Councilor DiNunzio stated Sunland is the low bidder, were they all bidding the same process to fix the problem to fix the problem.

Charles stated they were all bidding the same process.

Councilor DiNunzio stated the problem was in the technology of the asphalt. Concrete is a superior process?

Charles stated the problem was probably the settlement of the underlying surface.

Councilor DiNunzio stated so the underlying issue that is underneath, is that being addressed?

Charles stated the pre-stressed concrete approach isn't dependant on the underlying surface.

Councilor DiNunzio asked if Sunland asphalt is competent to do concrete?

Charles stated yes. People do use the courts now but we're concerned with how wide the cracks are.

Mayor Adams stated before we go fixing something, he'd like to make sure we're fixing something that's being used. Is there communication between Public Works and the Parks Department?

Charles stated Parks requested us to pursue this project.

Councilor Rayner stated he's glad to see we're going to an outfit that works out of Arizona. He's worried when you take the lowest bid. Are we getting the best bang for our buck?

Charles stated they're putting in concrete not asphalt. In looking at the bids, they're higher than what we estimated, but the state law has us going with the lowest responsible bidder. The only question we can ask them is "are you sure"? If they're sure, then we have no choice but to take it.

Councilor Rayner stated he always worries that you're not getting the value for the buck, but if that's the state law so be it.

Councilor McIlroy asked if they're sealed bids?

Charles stated it's sealed.

Councilor McIlroy asked if we'd be liable for not repairing something that would be a defect?

Charles stated Parks & Recreation was concerned we have to close the park.

Councilor Ward stated he'd be interested to know if this is impact fee money?

Tim Ernster stated we'll get the information out to council tomorrow.

Councilor Litrell moved to approve award of the contract for construction of the Sunset Park Tennis and Basketball Court Replacement Project to Sunland Asphalt for \$236,051.10 to include the Base Bid plus Additive Alternate #1 bid, subject to approval of a written contract by the City Attorney's office.

Seconded by Councilor Rayner. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

12. Discussion/possible action on a Construction Manager at Risk (CMAR) Construction Services Guaranteed Maximum Cost (GMP) Contract GMP-5 for the Major Pump Stations Modifications Project in the amount of \$1,229,407, plus the City's Contingency of \$50,000.

Andy Dickey stated the project was developed to allow for preventative maintenance. The project included 5 phases to allow construction to begin on one phase while design continued on another phase. GMP 1-3 are currently complete, which included created bypass wet wells for the lift stations. The approved contract amount was \$4.2 million and the actual amount was \$3.69 million. GMP 4 is nearly complete. The approved contract was \$3 million. The actual cost is projected to be \$1.7 million. The difference between the contracted and actual cost was because a lot of the work and scope was moved into GMP 5. That work couldn't be completed until some of the work was completed in GMP 5. GMP 5 includes several safety improvement items like installation of pumps into the wet walls and purchase of a truck for maintenance of the pumps. The proposed contract is \$1.2 million. The total project cost was estimated at \$7.8 million. The total projected cost will be \$6.6 million. So the contract approval amount is within the existing and proposed budget.

Mayor Adams opened it to the public at 8:18 p.m., not seeing any; he brought it back to Council.

Councilor DiNunzio stated the approved contract, that's the actual contract that we signed and they were able to come in under that?

Andy stated correct. That's one of the benefits of a CMAR contract.

Mayor Adams asked what's the primary reason it's been coming in under budget?

Charles stated in some cases it's more efficiency. As we move through the project, we take suggestions from the contractor. When you look in detail at these prices there's a contingency for the contractor that says if they run into something they'll use X.

Councilor McIlroy asked if there's a warranty once 1-5 are complete?

Charles stated for each GMP we have a 2-year warranty.

Councilor McIlroy asked if this puts the system in top shape or are there other things?

Charles stated there's always things we'll have to address. We needed the redundant channel and pumps that this put in place that always us to do the maintenance and inspection and then put it back into service. When you have a bypass station you have more time to deal with issues.

Mayor Adams asked if there's any way the bypass could have contributed to the water hammer problem at Brewer Road?

Charles stated the preliminary findings aren't pointing to that.

Councilor Ward stated he's amused by the specificity of this motion compared to the motion for the audit.

Mike Goimarac stated it's detailed as it's referring to this as part of a larger project. It's unlike the other project. This is a construction manager at risk and it's a whole different philosophy.

Councilor Rayner moved to approve the award of the Construction Manager at Risk (CMAR) Construction Services Guaranteed Maximum Cost (GMP) Contract GMP-5 for the Major Pump Stations Modifications Project with Fann Environmental, LLC in the amount of \$1,229,407, which includes a contractor's contingency of \$81,787, plus approve the City's Contingency of \$50,000 for an approval level of \$1,279,407.00, for the construction of the Major Pump Stations Modifications Project using the Construction Manager @ Risk construction services procurement procedure, subject to the review and approval of the City Attorney. Seconded by Councilor Ward. Vote: Motion passes unanimously with seven (7) in favor and zero (0) opposed.

13. Discussion/possible action on an Ordinance amending the Sedona City Code, Section 3-3-2 modifying procedures for adopting changes or amendments to the Employee Manual.

Mike Goimarac stated this proposed housekeeping matter is to make it easier to amend the employee manual by not requiring it to be done by ordinance. We'll remove the "done by ordinance" so we can put changes on the consent agenda.

Mayor Adams took it to the public at 8:29 p.m., not seeing any; he brought it back to Council.

Mike Goimarac read the ordinance: "Ordinance No. 2010-09. An ordinance of the city of Sedona, Arizona, amending the Sedona City Code to remove the requirement that changes to the employee manual be done by ordinance Section 3-3-2."

Councilor McIlroy moved to adopt Ordinance 2010-09 removing the requirement that changes to the Employee Manual be done only by ordinance. Seconded by Vice Mayor Hamilton. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

14. Discussion/possible action on proposed resolutions to be presented to the League of Arizona Cities and Towns for their 2011 State Legislative agenda.

Mayor Adams stated we're simply looking at supporting resolutions submitted by other cities and towns in Northern Arizona.

Tim Ernster stated he handed out another resolution. We got a request from the City of Cottonwood to support their resolution that deals with substances that have the precursor chemicals for producing meth over the counter. They're requesting they all be moved to prescriptions. The other ones before you, we have one from Camp Verde protecting our Heritage Fund Revenues. We have four from Flagstaff. Staff feels they all merit co-sponsorship. There was one from Page that we didn't feel was appropriate for the City to co-sponsor, but the ones before you are the ones we feel have merit. All the resolutions go before the subcommittee at the League. They will par down that list to the resolutions they feel should go to the executive committee. Once we have that master list we'll bring that back to Council in July to identify your top 5-6 resolutions. That will provide the Mayor enough information to carry the Council's recommendation forward to the executive committee.

Mayor Adams stated it's a gesture to the other cities. It doesn't commit us to anything. It allows it to move to the next step. It's hard to say how many of these may make it to the League conference, maybe none of them. He feels the gesture to support our fellow cities is a good gesture and he'd recommend we support the six resolutions staff has supported.

Councilor McIlroy stated taking this to the end, what happens to it if it survives does it go to the Legislature?

Mayor Adams stated it's then supported by the League for action in the Legislature. Often times nothing happens with it at the Legislature. It may or may not mean anything.

Councilor Litrell stated there's a few she's not comfortable with. She doesn't have a problem with Cottonwood's resolution. Are we dreaming or is the state shared revenue one a real possibility? Is this a realistic one?

Tim Ernster stated it's probably not realistic in the next year or so, but the top priority of the League is to protect state shared revenues.

Mayor Adams stated this may be supported by the League. It may be one that comes back every year and nothing happens.

Councilor Litrell stated she's fine with that. The one related to the sustainable energy financing district authority. How would that work in Sedona where we don't have that?

Tim Ernster stated there are a lot of special improvement districts. What they're suggesting is in the future cities could form special improvement districts to generate financing for these types of improvements.

Councilor Litrell stated the one related to obtaining additional water supplies, she's not comfortable having Sedona sign on to something like that. She's okay with all of them except that one.

Mayor Adams stated he agrees with her on that one.

Vice Mayor Hamilton stated he agrees with Councilor Litrell and Mayor Adams. He can't agree to that resolution.

Camp Verde: One Resolution

- 1.) Urge the Legislature to act on behalf of all cities and towns, asking for protection, authorization and full appropriations for funding of State Shared Revenues and Arizona State Parks Board Heritage Funds.

Flagstaff: Four Resolutions

- 2.) Recommend that the State of Arizona continue to support retention of existing economic development tools and programs and increase access to new tools for cities to help them remain competitive nationally and internationally. Economic development remains a strong driver to the State's economy by providing high wage jobs and thereby increasing revenues to municipalities and the State.

- 3.) Support the continued funding of the Housing Trust Fund administered by the Arizona Department of Housing. This flexible funding source is critical to smaller communities' efforts to assist the most vulnerable populations in achieving safe and decent housing.
- 4.) Request and encourage the Arizona State Legislature to establish the mechanism for the creation of sustainable energy financing district authority. In addition, encourage the Arizona State Legislature to identify and define energy efficiency and renewable energy as a public benefit that enhances the public good and promotes the health, safety, prosperity, security and general welfare of the community.
- 5.) Identify and establish funding sources for Arizona Water Supply Revolving Fund Development authorized by H.B. 2692.

Cottonwood: One Resolution

- 6.) Urge the Arizona Legislature to designate medications containing certain precursor chemicals used in the production of Methamphetamine as controlled substances.

Councilor DiNunzio moved to approve co-sponsorship of the following resolutions to the Arizona League of Cities and Towns conditioned on the originating City approving submittal. Resolution 1, 2, 3, 4 and 6. Seconded by Mayor Adams. Vote: Motion passes unanimously with seven (7) in favor and zero (0) opposed.

15. Discussion/possible action on future meeting/agenda items.

Mayor Adams stated the next meeting will be Wednesday, June 16, at 5:00 p.m. in the Chambers.

Vice Mayor Hamilton stated the wastewater connection was added to that. Can we ask that we really publicize that?

Councilor Ward asked if Council would like to address the current ordinance that restricts the rezoning applicants to one extension given these tough economic times. He talked with John Griffin and didn't think that anybody had ever withdrawn their request. Is that something we'd like to consider?

Councilor DiNunzio asked if it'd be appropriate to ask Planning & Zoning (P&Z) to come forward with a position on it?

Mike Goimarac stated any amendment to the Land Development Code requires P&Z approval. If you want to direct staff to investigate that and submit it to P&Z you can make that decision and P&Z can look at it. Assuming someone's time limit expires, the rezoning doesn't resort back automatically. Council has to ask for a hearing for that to happen.

Mayor Adams stated before we decide to put that on the agenda we'll go through the retreat and see the load on staff.

The regular Council meeting will be Tuesday, June 22; we have another meeting on Wednesday, June 23. On Wednesday, June 30, we have the Council retreat all day long.

Councilor Ward stated he'll be out of town starting June 29.

Councilor Litrell stated she'll be out of town on June 23.

Mayor Adams stated we may have to do the June 23 one.

Vice Mayor Hamilton stated we should have everyone there on June 23.

Mayor Adams stated the only one he's thinking of changing is the retreat.

Councilor Litrell asked if it's possible to have the retreat on Monday, June 28?

Councilor Ward stated Doodlebug works well.

Mayor Adams stated we can do the all day retreat on June 28.

Tim Ernster stated we'll get a notice out tomorrow for the June 28 if we can get the room.

16. **Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:**
 - a. **To consult with legal counsel for advice on matters listed on this agenda per A.R.S. §38-431.03(A)(3).**
 - b. **Discussion or consultation with legal counsel in order to consider its position and instruct its legal counsel regarding the City's position in the following pending or contemplated litigation or contracts that are the subject of negotiation, or settlement discussions in order to avoid or resolve litigation per A.R.S. §38-431.03(A)(4), specifically:**
 - 1) **Sedona Grand, L.L.C., v. City of Sedona, Yavapai County Superior Court Case No. 820080129.**

Following any discussions in executive session of the above matters, the City reserves the right to discuss and/or act on any of the above listed legal matters in open session.

17. **Return to open session. Discussion/possible action on executive session items.**
18. **Adjournment:** Mayor Adams adjourned the meeting without objection at 8:57 p.m.

I certify that the above is a true and correct summary of the Regular City Council meeting held on June, 8 2010.

Alison Carney, Recording Secretary

Date